

LATHAM & WATKINS LLP

Andrew Clubok (*pro hac vice*)
Sarah Tomkowiak (*pro hac vice*)
555 Eleventh Street, NW, Suite 1000
Washington, District of Columbia 20004
Telephone: (202) 637-2200

BUTLER SNOW LLP

Martin Sosland (TX Bar No. 18855645)
Candice Carson (TX Bar No. 24074006)
2911 Turtle Creek Blvd., Suite 1400
Dallas, Texas 75219
Telephone: (469) 680-5502

Jeffrey E. Bjork (*pro hac vice*)
Kimberly A. Posin (*pro hac vice*)
355 South Grand Avenue, Suite 100
Los Angeles, CA 90071
Telephone: (213) 485-1234

*Counsel for UBS Securities LLC and UBS
AG London Branch*

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P., ¹	§	Case No. 19-34054-SGJ11
Debtor.	§	
UBS SECURITIES LLC AND UBS AG	§	Adversary Proceeding No.
LONDON BRANCH,	§	
Plaintiffs	§	21-03020-sgj
vs.	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
Defendant.	§	

¹ The Debtor's last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.

**PLAINTIFFS' MOTION FOR EXPEDITED HEARING ON
PLAINTIFFS' MOTION TO COMPEL AND
RESPONSE TO MOTION OF FORMER EMPLOYEES TO QUASH SUBPOENAS**

UBS Securities LLC and UBS AG London Branch (together, “UBS”), plaintiffs in the above-captioned adversary proceeding (the “Adversary Proceeding”), by and through their undersigned counsel, respectfully submit this motion (the “Motion to Expedite”) requesting an expedited hearing to be set on *Plaintiffs' Motion to Compel and Response to Motion of Former Employees to Quash Subpoenas*, Adv. Dkt. No. 74 (the “Motion to Compel”) as soon as counsel may be heard.

JURISDICTION AND VENUE

1. This Court has jurisdiction to consider this Motion to Expedite under 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b). Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

RELIEF REQUESTED

2. By this Motion to Expedite, UBS respectfully requests entry of an order setting a hearing on the Motion to Compel as soon as counsel may be heard before the Court.

BASIS FOR RELIEF REQUESTED

3. Rule 9006(c) of the Federal Rules of Bankruptcy Procedure provides that the Court may in its discretion “for cause shown” reduce the notice period required before a hearing may be set on the Motion. Fed. R. Bankr. P. 9006(c). Additionally, pursuant to section 105(a) of Title 11 of the United States Code (the “Bankruptcy Code”), the Court “may issue any order ... that is necessary or appropriate to carry out the provisions” of the Bankruptcy Code. 11 U.S.C. § 105(a).

4. As more fully described in the Motion to Compel, UBS filed the Motion because the Former Employees,² despite having been served with Subpoenas more than a month ago, have failed to comply with any of the Subpoenas and have refused to even set a single date by which any of the Former Employees would fulfill his or her discovery obligations to produce documents or sit for deposition. UBS has repeatedly sought to find mutually agreeable dates and accommodate the Former Employees, all to no avail. UBS seeks an expedited hearing on the Motion because UBS needs to complete necessary discovery as soon as possible so that it can request a hearing date from this Court regarding its request for injunctive relief.

5. Importantly, no party will be prejudiced by the expedited consideration and entry of an order approving the Motion to Compel. As more fully discussed in the Motion to Compel, the Former Employees and/or their counsel have had notice of the Subpoenas for over seven weeks and have refused to engage with counsel for UBS on a deadline for producing documents or a time to set their depositions. Expedited consideration is in the interest of all parties to this adversary proceeding as it will allow UBS to finally bring an end to its discovery and move forward with the underlying adversary case. Therefore, UBS respectfully requests that the Court grant this Motion for Expedited Hearing and enter an order authorizing the expedited consideration of the Motion to Compel on the next date the Court is available.

6. Additionally, UBS notes that with the filing of the Motion to Compel, the Former Employees' motion to quash (Dkt. No. 70) (the "Motion to Quash") is now fully briefed (as the Motion to Compel contained UBS's response to the Motion to Quash). Given the nearly complete overlap in issues between the Motion to Quash and UBS's Motion to Compel, and that ruling on

² Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Motion.

UBS's Motion to Compel will necessarily moot the Motion to Quash, UBS submits that the hearing on the Motion to Quash (currently set for July 29, 2021, Dkt. No. 71) should be consolidated and moved up to the same day as the hearing on the Motion to Compel.

NOTICE

7. Notice of this Motion to Expedite shall be provided to: (a) counsel to the Debtor; (b) counsel to the Former Employees (c) counsel to the Official Committee of Unsecured Creditors; and (d) the United States Trustee. Counsel for UBS will provide notice of the proposed expedited hearing to counsel for the Debtor and counsel for the Former Employees by email. Additionally, UBS has notified counsel for the Former Employees by email that UBS would seek an expedited hearing on the Motion. UBS respectfully submits that such notice is sufficient and that no further notice is required.

CONCLUSION

UBS respectfully requests immediate consideration of the Motion to Expedite by the Court and entry of an order setting the Motion for hearing on the next day that the court is available and granting UBS such other relief as it may be entitled in law or in equity.

DATED this 20th day of May, 2021.

LATHAM & WATKINS LLP

By /s/ Andrew Clubok

Andrew Clubok (*pro hac vice*)
Sarah Tomkowiak (*pro hac vice*)
555 Eleventh Street, NW, Suite 1000
Washington, District of Columbia
Telephone: (202) 637-2200
Email: andrew.clubok@lw.com
sarah.tomkowiak@lw.com

and

Jeffrey E. Bjork (*pro hac vice*)
Kimberly A. Posin (*pro hac vice*)
355 South Grand Avenue, Suite 100
Los Angeles, CA 90071
Telephone: (213) 485-1234
Email: jeff.bjork@lw.com
kim.posin@lw.com

BUTLER SNOW LLP

Martin Sosland (TX Bar No. 18855645)
Candice M. Carson (TX Bar No. 24074006)
2911 Turtle Creek Boulevard, Suite 1400
Dallas, Texas 75219
Telephone: (469) 680-5502
E-mail: martin.sosland@butlersnow.com
candice.carson@butlersnow.com

*Counsel for UBS Securities LLC and UBS
AG London Branch*

CERTIFICATE OF CONFERENCE

The undersigned hereby certifies that on May 19, 2021, counsel for UBS communicated with counsel for the Former Employees regarding the relief requested in the Motion to Compel and the Motion to Expedite. Counsel for the Former Employees does not support the relief sought in the Motion to Compel and the Motion to Expedite.

Dated: May 20, 2021.

/s/ Andrew Clubok

CERTIFICATE OF SERVICE

I, Martin A. Sosland, certify that *Plaintiffs' Motion for Expedited Hearing on Plaintiffs' Motion to Compel and Response to Motion of Former Employees to Quash Subpoenas* was filed electronically through the Court's ECF system, which provides notice to all parties of interest.

Dated: May 20, 2021.

/s/ Martin A. Sosland
Martin A. Sosland

EXHIBIT A

Proposed Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re § Chapter 11
§
HIGHLAND CAPITAL MANAGEMENT, L.P.,¹ § Case No. 19-34054-SGJ11
§
Debtor. §

UBS SECURITIES LLC AND UBS AG § Adversary Proceeding No.
LONDON BRANCH, §
Plaintiffs § 21-03020-sgj
vs. §
HIGHLAND CAPITAL MANAGEMENT, L.P., §
Defendant. §

¹ The Debtor's last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.

**ORDER GRANTING THE MOTION FOR EXPEDITED HEARING ON
PLAINTIFFS' MOTION TO COMPEL AND RESPONSE TO MOTION OF FORMER
EMPLOYEES TO QUASH SUBPOENAS**

Upon consideration of *Plaintiffs' Motion for Expedited Hearing on Plaintiffs' Motion to Compel and Response to Motion of Former Employees to Quash Subpoenas* (the “Motion to Expedite”) filed by UBS Securities LLC and UBS AG London Branch (together “UBS”); and it appearing that this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that this proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b); and it appearing that venue of this proceeding and the Motion to Expedite is proper in this District pursuant to 28 U.S.C. §§ 1408-1409; and due, adequate, and sufficient notice of the Motion to Expedite having been given; and having determined that the legal and factual bases set forth in the Motion to Expedite establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor it is hereby **ORDERED**:

1. The Motion to Expedite is GRANTED.
2. Once set, UBS shall file with the Court a notice of hearing setting the date and time of the *Plaintiffs' Motion to Compel and Response to Motion of Former Employees to Quash Subpoenas* and *Motion of Former Employees to Quash Subpoenas*.

End of Order

Order prepared by:

LATHAM & WATKINS LLP

By /s/ Andrew Clubok

Andrew Clubok (*pro hac vice*)
Sarah Tomkowiak (*pro hac vice*)
555 Eleventh Street, NW, Suite 1000
Washington, District of Columbia 20004
Telephone: (202) 637-2200
Email: andrew.clubok@lw.com
sarah.tomkowiak@lw.com

and

Jeffrey E. Bjork (*pro hac vice*)
Kimberly A. Posin (*pro hac vice*)
355 South Grand Avenue, Suite 100
Los Angeles, CA 90071
Telephone: (213) 485-1234
Email: jeff.bjork@lw.com
kim.posin@lw.com

BUTLER SNOW LLP

Martin Sosland (TX Bar No. 18855645)
Candice M. Carson (TX Bar No. 24074006)
2911 Turtle Creek Blvd., Suite 1400
Dallas, Texas 75219
Telephone: (469) 680-5502
E-mail: martin.sosland@butlersnow.com
candice.carson@butlersnow.com

*Counsel for UBS Securities LLC and UBS
AG London Branch*